DOCUMENT RESUME

ED 131 925 PS 008 933

TITLE	Assistance in Meeting Federal Child Care Standards. Report Together with Minority and Additional Views (To Accompany H.R. 9803), Senate, Ninety-Fourth Congress, Second Session. Report No. 94-592.
INSTITUTION	Congress of the U.S., Washington, D.C. Senate Committee on Finance.
PUB DATE	Jan 76
NOTE	36p.
EDRS PRICE	MF-$0.83 HC-$2.06 Plus Postage.
DESCRIPTORS	*Child Care; *Child Care Workers; *Day Care Services; *Early Childhood Education; *Educational Legislation; Expenditures; Federal Aid; *Federal Legislation; State Standards
IDENTIFIERS	*Social Security Act Title XX

ABSTRACT

This report from the Senate Committee on Finance (94th Congress) contains information on bill H.R. 9803 that would postpone for six months the effective data of the requirement that a child day care center meet specified staffing standards (for children between six weeks and six years old) in order to qualify for Federal payments for the services included under Title XX of the Social Security Act. Contained in this document is a summary of the bill, a general explanation of the bill (including staffing requirements and cost tables by state), budgetary impact of the bill, vote of the committee in reporting the bill, changes in existing law, grants to states for services, credits against tax, minority views, and additional views of Senator Packwood. (SB)

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JUL 30 1976

Calendar No. 568

94TH CONGRESS
2d Session

SENATE

REPORT
No. 94-592

ED131925

PS008933

ASSISTANCE IN MEETING FEDERAL CHILD CARE STANDARDS

JANUARY 26, 1976.—Ordered to be printed

Mr. LONG, from the Committee on Finance, submitted the following

REPORT

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany H.R. 9803]

The Committee on Finance, to which was referred the bill (H.R. 9803) to postpone for 6 months the effective date of the requirement that a child day care center meet specified staffing standards (for children between 6 weeks and 6 years old) in order to qualify for Federal payments for the services involved under title XX of the Social Security Act, so long as the standards actually being applied comply with State law and are no lower than those in effect in September 1975, having considered the same, reports favorably thereon with an amendment, and an amendment to the title, and recommends that the bill as amended do pass.

I. SUMMARY OF THE BILL

The bill as passed by the House of Representatives on September 29, 1975, would have temporarily suspended (through March 31, 1976) certain Federal child care staffing requirements. The substance of the House bill was subsequently enacted in other legislation but with a January 31, 1976, termination date. The committee amendment extends that suspension, provides additional Federal funding to meet the requirements, provides incentives for hiring welfare recipients as child care staff, and makes certain other modifications in the social services statute.

Temporary deferral of standards.—Public Law 94-120, enacted October 21, 1975, postpones until February 1, 1976, certain Federal

child care staffing requirements applicable to children between the ages of 6 weeks and 6 years who have their care funded under the social services title of the Social Security Act. Under the committee amendment this temporary postponement of these standards would continue for an additional 5 months (through June 30, 1976).

Additional Federal funding of child care.—The Social Services Amendments of 1974 require that child care services funded under the social services program meet certain minimum Federal standards with respect to staffing and other matters. Though compliance with these standards will increase the cost of providing child care services in many States, the 1974 legislation did not increase the $2.5 billion limitation on Federal social services funding which was imposed in 1972. In order to help States meet the costs of complying with these standards, the committee amendment would provide for increasing the maximum allowable funding under the program by $250 million per year, starting with $125 million in the current fiscal year. The new funding is available only for child care and will be available to match State expenditures on an 80 percent matching basis (as compared with 75 percent for most other social services programs). Until fiscal year 1978, 20 percent of the additional Federal funding provided by the bill will be reserved for allocation by the Department of Health, Education, and Welfare to those States determined to have particular funding problems related to complying with Federal child care standards.

Tax credit for employing welfare recipients in child care.—The committee amendment is designed to encourage States to meet the Federal child care staffing requirements by employing welfare recipients. This amendment broadens in several respects the present tax credit of 20 percent of the wages paid to a welfare recipient or former welfare recipient (with a maximum annual credit of $1,000 per employee). For child care providers, the amendment makes the tax credit available through 1980 and provides that it will be available on a refundable basis so that it will benefit all providers, including public and nonprofit providers and those with little or no tax liability. The committee amendment also authorizes States to use some of the additional social services funding provided by the bill to match the tax credit in such a way as to provide full Federal funding of the costs of hiring welfare recipients as child care employees up to a maximum salary of $5,000 per year.

Waiver of standards in certain cases.—The committee modified the child care standards to permit State welfare agencies to waive the Federal staffing requirements in the case of child care centers and group day care homes which meet State standards if the children receiving federally funded care represent no more than 20 percent of the total number of children served (or, in the case of a center, there are no more than 5 such children), provided that it is infeasible to place the children in a facility which does meet the Federal requirements.

Modification of family day care home requirements.—The 1974 law incorporates a requirement that a family day care home serve no more than 6 children including the family day care mother's own children under age 14. The committee amendment modifies this requirement so that the family day care mother's own children would be counted only if they are under age 6.

Social services provisions related to addicts and alcoholics.—Public Law 94–120 included certain modifications of the social services statute governing funding of services for addicts and alcoholics. These changes were made effective only through January 31, 1976. The committee amendment would make these changes permanent.

One of these changes makes explicit certain confidentiality requirements in the case of services provided to addicts and alcoholics. Another change clarifies that the entire rehabilitative process must be considered in determining whether medical services provided to addicts and alcoholics can be funded as being an integral part of a social services program. A third change allows funding of a 7-day detoxification period even though social services funding is generally not available to institutionalized persons.

II. GENERAL EXPLANATION OF THE BILL

Need for Legislation

The Social Services Amendments of 1974 (Public Law 93–647) require that certain Federal standards be met by child care provided outside the child's home in order to qualify for Federal funds under the social services program (title XX of the Social Security Act). Generally, title XX sets as these standards the Federal Interagency Day Care Requirements promulgated by the Department of Health, Education, and Welfare. The Federal Interagency Day Care Requirements limit the number of children per staff member, impose safety and sanitation standards, set general requirements for the suitability of physical facilities, and have provisions relating to a number of other matters. While the greatest attention has been given thus far to the staffing standards, the other standards in the Federal Interagency Day Care Requirements will also involve additional costs in many States.

The 1974 amendments originally required that the Federal standards be met by October 1, 1975. However, as that date drew near it became clear that a significant number of providers in many States would not be able to meet the requirements. Responding to the concern that enforcement of the requirements would result in a decrease in the availability of care for the low-income children served under title XX and would also have an adverse effect on many child care providers, the Congress enacted P.L. 94–120, which provides that no penalties for noncompliance can be imposed prior to February 1, 1976. The postponement applies only to staffing requirements for care provided for children between the ages of 6 weeks and 6 years in day care centers and group day care homes. During the period of postponement staffing levels in centers and group homes can be no lower than is required by current State law, any subsequent modifications of State law, or the staffing levels actually in effect in each child care program as of September 15, 1975.

The staffing requirements which are in law and which must be met beginning February 1, 1976 (unless further legislation is enacted) are shown in table 1.

Table 2 shows the staffing requirements imposed by State law in the various States for child care centers generally as of October 1975.

TABLE 1.—CHILD CARE CENTER STAFFING REQUIREMENTS UNDER LAW AND HEW REGULATION

Age of child	Maximum number of children per staff member	
Under 6 weeks	1	Required by regulation.
6 weeks to 3 years	4	Required by regulation.
3 to 4 years	5	Required by law.
4 to 6 years	7	Required by law.
6 to 9 years	15	Maximum number allowed by law (though Secretary of HEW may lower the maximum number of children per staff member, thus increasing the staff required).
10 to 14 years	20	

TABLE 2.—CHILD CARE CENTERS: MINIMUM STAFFING REQUIREMENTS, BY AGE OF CHILDREN, UNDER STATE LICENSING REGULATIONS

	Maximum number of children per staff member [1] if age of children is—					
	Under 2	2 to 3	3 to 4	4 to 5	5 to 6	School age
Alabama	5	[1] 5	10	20	20	[2] 22
Alaska	5	5	10	10	10	10
Arizona	[3] 8	10	15	20	25	25
Arkansas	[4] 6	[5] 6	12	15	18	NS
California	[6] 4	12	12	12	12	12
Colorado	[7] 5	[8] 7	10	12	15	15
Connecticut	4	4	[9] 5	[9] 7	[9] 7	[10] 10
Delaware [13]	[11] 5	[12] 8	15	20	20	25
District of Columbia	[14] 4	[15] 4	8	10	15	15
Florida [17]	[16] 6	12	15	20	25	25
Georgia	[18] 7	10	15	18	20	[19] 25
Hawaii	[20] X	10	15	20	25	25
Idaho	[21] 6	[22] 8	10	10	10	NS
Illinois	6	8	10	[23] 10	25	25
Indiana	[24] 4	5	10	12	15	20
Iowa	4	6	8	12	15	15
Kansas	[25] 3	[26] 5	10	[27] 10	[27] 10	16
Kentucky	6	8	10	12	15	[28] 15
Louisiana [30]	[29] 6	12	14	16	20	25
Maine [32]	[20] X	[31] 8	10	15	15	15
Maryland	[33] NS	6	10	10	13	NS
Massachusetts	[34] 10	[34] 10	[35] 10	[36] 10	15	[38] 15
Michigan	[20] X	[39] 10	10	12	20	NS
Minnesota	[40] 4	[41] 7	10	10	10	15
Mississippi	NS	NS	NS	NS	NS	[20] X

See footnotes at end of table.

TABLE 2.—CHILD CARE CENTERS: MINIMUM STAFFING REQUIREMENTS, BY AGE OF CHILDREN, UNDER STATE LICENSING REGULATIONS—Continued

	Maximum number of children per staff member [1] if age of children is—					
	Under 2	2 to 3	3 to 4	4 to 5	5 to 6	School age
Missouri	[20] X	5	10	10	15	15
Montana	NS	NS	NS	NS	NS	NS
Nebraska	4	5	7	7	7	12
Nevada	[42] 4	[43] 8	[44] 10	[44] 10	[44] 10	[45] 3
New Hampshire	4	[46] 4	10	15	18	20
New Jersey	[20] X	[47] NS	[47] NS	[47] NS	[47] NS	[20] X
New Mexico	10	10	15	[48] 15	[48] 15	15
New York	[49] 4	5	5	7	7	10
North Carolina	[50] 8	[50] 12	[50] 15	[50] 20	[50] 25	[50] 25
North Dakota	4	4	10	10	12	[51] 12
Ohio	[52] 8	10	15	15	20	20
Oklahoma [53]	[54] 4	8	12	15	15	20
Oregon	[55] 4	10	10	10	10	[56] 10
Pennsylvania	[20] X	[20] X	8	10	10	13
Rhode Island	[20] X	[20] X	10	15	25	NS
South Carolina	6	8	10	14	15	15
South Dakota	[57] 1	4	5	7	7	[58] 15
Tennessee	[59] 5	8	10	15	25	[60] 30
Texas	[61] 4	8	12	15	18	[62] 20
Utah	[20] X	10	15	15	20	[63] 20
Vermont	4	5	10	10	12	12
Virginia	3	10	10	10	10	10
Washington	[64] 5	[65] 7	10	10	10	10
West Virginia	4	8	10	12	15	16
Wisconsin	[66] 3	[67] 6	10	12	16	[60] 16
Wyoming	5	8	10	15	20	25

Footnotes on following pages.

FOOTNOTES

[1] 5 if 2 to 2½; 10 if 2½ to 3.
[2] 22 if 6 to 8; 25 if 8 and over.
[3] 8 if 0 to 15 mo; 10 if 15 mo to 2 yr.
[4] In infant-toddler centers.
[5] 6 in infant-toddler centers; 12 if 2½ to 3 in other centers.
[6] In infant centers.
[7] If 6 weeks to 8 mo in infant center; or if 12 mo to 3 yr in toddler center.
[8] 7 if all 2-yr-olds in toddler center; 8 if 2½ to 3 in large or small center.
[9] Recommended FIDCR child/staff ratios.
[10] If under title XX funding; 15, if 6 to 10 yr of age; 20 if 10 to 14 yr of age (FIDCR ratios).
[11] 5 if 0 to 1; 8 if 1 to 2.
[12] 8 if 2 to 2½; 15 if 2½ to 3.
[13] In Delaware, centers receiving Federal funds have the following mandated ratios: Under 2: 5; 2 to 3: 5; 3 to 4: 5; 4 to 5: 7; 5 to 6: 7; school age: 10.
[14] Pending issue of new infant center regulations.
[15] 4 if 2 to 2½; 8 if 2½ to 3.
[16] 6 if under 1 yr; 8 if 1 to 2.
[17] Mandated ratio for handicapped children: Under 2: 4; 2 to 3: 6; 3 to 4: 8; 4 to 5: 10; 5 to 6: 14; school age: 14.
[18] 7 if 0 to 18 mo; 10 if 18 mo to 2 yr.
[19] 25 if 7 and over; 6 to 7 not specified.
[20] Children in this age group generally not accepted.
[21] 6 if 0 to 18 mo; 8 if 18 mo to 2 yr.
[22] 8 if 2 to 2½; 10 if 2½ to 3.
[23] 10 if full-day; 20 if half-day.
[24] 4 if 6 weeks-walking; 5 if walking—2.
[25] 3 if 2 weeks—nonwalking under 24 mo only; 5 if walking—2 yr.
[26] 5 if walking—2½; 7 if 2½ to 3.
[27] 10 if full-day; 12 if part-day.
[28] 15 if 6 to 8; 20 if 8 and over.
[29] 6 if nonwalking; 8 if toddlers.
[30] Centers serving 10 children with no more than 2 children under 2 yr of age have mandated child/staff ratio of 10 to 1 in all age categories.
[31] 8 if 2½ to 3 yr.
[32] In Maine, separate before and after school programs have 10 to 1 ratio in school age category.

The committee held hearings on October 8, 1975 on the child care staffing requirements and on proposals to deal with the situation which would arise when the requirements would be enforced. Although testimony at the hearings was generally in support of the requirements, there was extensive testimony on the need for additional funding if the requirements imposed by title XX were to be met.

A committee staff survey of Governors on the funding needs of the States showed that nearly all the States envisaged increased expenditures as a result of the title XX staffing and other requirements. The total estimate for all the States was $206.3 million for fiscal year 1976. Table 3 shows each State's estimate of its increased child care costs and increased staffing requirements in fiscal year 1976 as compared with fiscal year 1975 assuming full compliance in 1976 with all title XX requirements.

FOOTNOTES—Continued

[33] Admitted only upon approval of local health officer.
[34] Admitted only upon prior approval.
[35] 10 in care over 3 hr; 12 in care 3 hr or less.
[36] 10 in care over 3 hr; 13 in care 3 hr or less.
[37] 15 in care over 3 hr; 25 in care 3 hr or less.
[38] 15 if 6 to 7 in care over 3 hr; 25 if 6 to 7 in care 3 hr or less.
[39] 10 if 2½ to 3.
[40] 4 if 6 weeks to 16 mo; 7 if 16 mo to 2 yr.
[41] 7 if 2 yr to 31 mo; 10 if 31 mo to 3 yr.
[42] 4 if 6 weeks to 9 mo; 6 if 9 to 18 mo; 8 if 18 mo to 2 yr.
[43] 8 in infant-toddler center; 10 for 1st 20 children; 15 for excess over 20.
[44] 10 for 1st 20 children; 15 for excess over 20.
[45] 3 or 10 percent over licensed capacity, whichever is greater, if before or after school care.
[46] 4.8 if maximum of 24 children under 3 yr of age in care.
[47] 2 adults for any total group.
[48] 20 if in care 3 hr or less.
[49] 4 if under 18 mo; 5 if over 18 mo.
[50] If 30 or more in care; 10 if less than 30.
[51] If 4 to 7 yr.
[52] 8 if 0 to 18 mo; 10 if 18 mo to 2 yr.
[53] Recommended ratios.
[54] 4 if 0 to 10 mo in cribs; 6 if 10 mo to 2 yr.
[55] If 6 weeks to 30 mo.
[56] If 6 yr; 15 if over 6 yr.
[57] 1 if 0 to 6 mo; 3 if 6 to 18 mo; 4 if 18 mo to 2 yr.
[58] 15 if 6 to 10 yr; 20 if 10 to 14.
[59] 5 if 6 weeks to 1 yr; 6 if 1 to 2.
[60] If 6 to 7.
[61] 4 if 0 to 18 mo; 6 if 18 mo to 2 yr.
[62] 20 if 6 to 8; 25 if 8 or over.
[63] 20 if 6; 25 if 7 to 15.
[64] 5 if 1 mo to 1 yr; 7 if 1 to 2.
[65] 7 if 2 to 2½; 10 if 2½ to 3.
[66] 3 if 0 to 1; 4 if 1 to 3.
[67] 6 if 2 to 2½; 8 if 2½ to 3.

Source: Department of Health, Education, and Welfare. Current as of October 21, 1975.

Note: NS indicates "not specified."

TABLE 3.—STATE ESTIMATES OF INCREASE IN COST AND STAFFING FOR CHILD CARE FROM FISCAL 1975 TO FISCAL 1976

	Increased title XX costs (millions)	Increased staffing		Potential employment of welfare recipients as percent of added staffing
		For title XX children	For non-title XX children	
Total	$206.3			
Alabama	0.6	122	(1)	(2)
Alaska	1.4	150	(1)	50
Arizona	2.6	548	(2)	20–25
Arkansas	0	0	0	(3)
California	20.7	0	0	(3)
Colorado	2.4	400	200	(3)
Connecticut	(5)	0	0	(3)
Delaware	.9	99	(1)	(4)
District of Columbia	.4	56	81	20
Florida	12.1	766	1,036	(2)
Georgia	3.8	600	(1)	80
Hawaii	.4	60	1,577	20
Idaho	1.1	(2)	(2)	(2)
Illinois	23.5	700	[10] 7,000	71
Indiana	1.4	215	(2)	(2)
Iowa	2.0	167	(1)	(2)
Kansas	1.5	202	303	15
Kentucky	1.2	400	800	(2)
Louisiana	2.6	509	437	100
Maine	.1	0	0	(3)
Maryland	0	0	0	(3)
Massachusetts	5.3	600	0	100
Michigan	7.0	959	0	20
Minnesota	11.0	1,760	1,580	20
Mississippi	1.0	0	0	(3)
Missouri	2.5	1,246	(2)	5
Montana	.9	1,000	(1)	7–10
Nebraska	.3	155	(2)	100
Nevada	.1	[5] 160	[5] 160	(3)
New Hampshire	.2	40	50	20
New Jersey	3.7	92	10	100
New Mexico	2.2	96	0	50
New York [6]	12.0	300	0	67
North Carolina	9.8	1,800	400	60–70
North Dakota	(7)	0	0	(3)

See footnotes at end of table.

TABLE 3.—STATE ESTIMATES OF INCREASE IN COST AND STAFFING FOR CHILD CARE FROM FISCAL 1975 TO FISCAL 1976—Cont.

	Increased title XX costs (millions)	Increased staffing		Potential employment of welfare recipients as percent of added staffing
		For title XX children	For non-title XX children	
Ohio	([1])	0	0	([3])
Oklahoma	21.5	1,022	2,366	93
Oregon	.2	0	0	([3])
Pennsylvania	8.2	235	171	96
Rhode Island	.9	46	138	([2])
South Carolina	2.4	308	0	25–50
South Dakota	.6	650	150	23
Tennessee	1.7	200	([1])	5–8
Texas	16.2	1,720	1,514	20–30
Utah	1.4	199	739	70
Vermont	.8	428	([9])	75
Virginia	7.8	436	1,000	50
Washington	4.7	1,300	([2])	([2])
West Virginia	2.0	216	84	80–100
Wisconsin	2.6	234	750	50–100
Wyoming	.6	0	0	75

[1] Included in estimates for columns 1 and 2. Unable to show separately.
[2] Unable to estimate.
[3] Not applicable since State estimates no additional staffing needs.
[4] Additional employees already hired.
[5] Unable to estimate on a man-year basis; represents number of staff.
[6] Estimates cover urban counties only.
[7] Less than $50,000.
[8] Unable to estimate. No increased staffing but some increased cost to meet other standards and/or monitoring and reporting requirements of title XX.
[9] Unable to estimate numbers; cost estimated at $1,900,000.
[10] Includes a need for 6,000 new family day care homes.

Source: Committee staff survey of Governors.

The committee believes that if the States are to be required to meet the staffing standards and other requirements imposed by the new law, additional Federal funding must be provided. The funds made available by this bill are designed to meet the needs of the States. Without additional funding, the higher cost of providing child care meeting Federal requirements would result in States providing care for fewer children.

The provisions in the bill designed to encourage the hiring of welfare recipients in child care centers and homes also reflect the view

of the committee that this is a useful and potentially large source of employment for recipients. The estimates of the States as to the potential employment of recipients in child care facilities, shown in table 3, support this view.

Social services funds available to the States under present law and the additional amounts which would be made available by the committee bill are shown in table 4.

TABLE 4.—FEDERAL FUNDING ALLOCATIONS FOR SOCIAL SERVICES

[In thousands]

	Social services allocation for fiscal year 1977	Full year additional child care allocation under H.R. 9803 [1]
Total	$2,500,000	$250,000
Alabama	42,300	4,230
Alaska	3,975	398
Arizona	25,450	2,545
Arkansas	24,375	2,438
California	247,250	24,725
Colorado	29,525	2,952
Connecticut	36,525	3,652
Delaware	6,775	678
District of Columbia	8,550	855
Florida	95,675	9,568
Georgia	57,725	5,772
Hawaii	10,025	1,002
Idaho	9,450	945
Illinois	131,650	13,165
Indiana	63,025	6,302
Iowa	33,775	3,378
Kansas	26,850	2,685
Kentucky	39,700	3,970
Louisiana	44,525	4,452
Maine	12,375	1,238
Maryland	48,425	4,842
Massachusetts	68,600	6,860
Michigan	107,575	10,758
Minnesota	46,325	4,632
Mississippi	27,475	2,748

See footnote at end of table.

TABLE 4—FEDERAL FUNDING ALLOCATIONS FOR SOCIAL SERVICES—Continued

[In thousands]

	Social services allocation for fiscal year 1977	Full year additional child care allocation under H.R. 9803 [1]
Missouri	$56,500	$5,650
Montana	8,700	870
Nebraska	18,250	1,825
Nevada	6,775	678
New Hampshire	9,550	955
New Jersey	86,700	8,670
New Mexico	13,275	1,328
New York	214,200	21,420
North Carolina	63,425	6,342
North Dakota	7,525	752
Ohio	126,975	12,698
Oklahoma	32,050	3,205
Oregon	26,800	2,680
Pennsylvania	139,975	13,998
Rhode Island	11,075	1,108
South Carolina	32,925	3,292
South Dakota	8,075	808
Tennessee	48,825	4,882
Texas	142,500	14,250
Utah	13,875	1,388
Vermont	5,550	555
Virginia	58,050	5,805
Washington	41,100	4,110
West Virginia	21,175	2,118
Wisconsin	54,000	5,400
Wyoming	4,250	425

[1] Until fiscal year 1978, 20 percent of each State's allocation will be reserved for allocation to those States having particular funding problems associated with meeting child care standards.

Finding and Purpose

(Section 1 of the bill)

The bill provides that the Congress finds and declares—

(1) That the Social Services Amendments of 1974 set standards for child care under the Social Security Act which will require many child care providers to substantially increase their staff over existing levels;

(2) That in such cases compliance with these standards will require a substantial increase in the present level of expenditures for child care; and

(3) That adequate funding to meet these additional child care expenditures required by the Social Services Amendments of 1974 is not presently available.

Based on these findings the committee states as its purpose the provision of additional funding to make possible the implementation of the child care standards required under title XX without severely curtailing the availability of child care services.

Postponement of Penalties for Noncompliance

(Section 2 of the bill)

Under present law, no penalties will be imposed for failure to comply with the Federal child care staffing standards before February 1, 1976. The committee bill would make available immediately additional funding to enable States to meet the requirements; to allow for an orderly transitional period and to give States time to hire and train the necessary new child care staff, the bill would provide that no penalties for noncompliance with the staffing standards for preschool children could be imposed before July 1, 1976.

Additional Funds To Enable Title XX Standards To Be Met

(Section 3 of the bill)

The committee bill would increase the $2.5 billion limit on Federal funding for social services programs by $250 million annually beginning with fiscal year 1977 (with $125 million in fiscal year 1976 and $62.5 million for the transition quarter). These amounts are anticipated to be sufficient to enable the States to meet the title XX requirements. The additional funds would be available only for matching State child care expenditures and would be allocated among the States on the basis of State population. This is the same formula which is used for allocating the $2.5 billion available for social services under current law. (Table 4 shows the distribution of the additional $250 million by State.)

The committee bill requires that the new funds be used in such a way as to increase the employment of welfare recipients and other low-income persons in child care related jobs to the maximum extent feasible as determined by the States. The committee believes that most States have both the desire and the ability to promote the employment of welfare recipients as employees in child care facilities. Testi-

mony presented to the committee reinforced the committee's belief that States are ready to undertake this effort, and that there are large numbers of welfare recipients who are able and willing to be employed to care for children.

The committee bill permits States to use a part of their share of the additional $250 million to make grants to providers of child care to assist them with the costs of employing welfare recipients in order to meet the higher staffing requirements mandated by title XX. Such grants could be made only to child care providers where at least 30 percent of the children cared for have all or part of their care funded through the State's title XX social services program. The grants would be payable for employees with respect to whom the child care provider is eligible for the welfare recipient employment tax credit under section 50A of the Internal Revenue Code. The amount of the grant could be 80 percent of the employees' wages which in combination with the 20 percent tax credit would fully meet the cost of wages except that both the tax credit and State grant would apply only to the first $5,000 of wages. The cost of the State grant would be met fully with Federal funds (within the State's share of the additional $250 million) since the 20 percent covered by the tax credit would be considered to meet the matching requirement.

Child care centers often serve both welfare and nonwelfare children. The law requires them to maintain standards which would be applicable to both. Thus the committee believes it is necessary to give the States authority to use some of their additional social services money to help child care providers keep down the fees charged privately placed children. These fees would otherwise have to be raised because of the new standards. The bill would do this by letting States help meet the cost of hiring welfare recipients to meet the new staffing requirements in facilities where at least 30 percent of the children have their care funded under the social services program.

The committee bill would increase the Federal social services matching as it applies to child care costs from 75 percent to 80 percent. However, this matching percentage would be available only for those expenditures funded out of the State's share of the additional $250 million made available under the bill.

Temporary Allocation for States With Special Needs

(Section 4 of the bill)

A number of States have indicated that at least in the first years of the implementation of the requirements their needs for funding cannot be met by the amount which would be available to them as the result of the regular allocation formula. Recognizing that some States will have special difficulty in meeting the new standards, the committee bill provides for a limit in the amount available to the States under the regular allocation formula through the end of fiscal year 1977 (until September 30, 1977). For fiscal year 1976, $100 million would be allocated on the basis of State population, with the remaining $25 million to be allotted by the Secretary of Health, Education, and Welfare to States which he determined to be in need of additional funds. During the transition quarter, $50 million would be allotted to the

States on the basis of population, with the remaining $12.5 million allotted according to the Secretary's determination of State needs. In fiscal year 1977, these figures would be $200 million and $50 million respectively. However, in order to insure that the full amount authorized under the bill will be available to the States, any part of the money which is set aside for States with special needs and which is not used will be reallotted among the States on the basis of population. Beginning with fiscal 1978, the full amount will be allocated according to the normal allocation formula used under title XX, on the basis of population.

Tax Credit for Employing Welfare Recipients in Child Care

(Section 5 of the bill)

The staffing standards imposed under the social services program will require the hiring of additional child care staff. The committee wishes to encourage both profitmaking and nonprofit child care providers to hire welfare recipients in meeting the additional staff needs. For this reason, the committee bill provides a refundable tax credit to child care providers hiring welfare recipients; a payment equivalent to the tax credit is permitted if the provider is a tax-exempt organization.

The tax credit would equal 20 percent of up to the first $5,000 in wages per year paid each welfare recipient employed in the provision of child care (an annual limit of $1,000 per employee); the credit would be effective through 1980.

This 20 percent credit on the wages of welfare recipients could be used by centers to match Federal funds for child care under title XX of the Social Security Act.

A tax credit for hiring welfare recipients was first authorized under the 1971 Revenue Act; this credit applies only to wages paid recipients of aid to families with dependent children (AFDC) who are placed in employment through the Work Incentive (WIN) program. In order to be eligible for this credit (generally equal to 20 percent of the gross wages of the employee during the first 12 months of employment), the employee must be retained by the employer for an additional 12-month period following the first 12 months.

In the Tax Reduction Act of 1975, the Congress authorized for a temporary period a new Federal Welfare Recipient Employment Incentive Tax Credit broader in application than the WIN tax credit. The tax credit in the committee bill for hiring welfare recipients in the provision of child care is modeled after the Federal Welfare Recipient Employment Incentive Tax Credit in that it applies solely to the employment of a welfare recipient who:

(A) has been certified by the State or local welfare department as being eligible for financial assistance for aid to families with dependent children and as having continuously received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the taxpayer,

(B) has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis (thus

after the eligible employee had worked the first 30 days, the taxpayer would receive the credit for the wages paid or incurred by the taxpayer for the first 30 days of employment plus the wages for all days the employee continued to work after the original 30-day period),

(C) has not displaced any other individual from employment by the taxpayer,

(D) is not a migrant worker (for purposes of this tax credit, a migrant worker means an individual who is employed for services for which the customary period of employment by one employer is less than 30 days if the nature of such services requires the employee to travel from place to place for a short period of time), and

(E) is not a close relative of the taxpayer (bearing any of the relationships to the taxpayer described in paragraphs (1) through (8) of section 152(a) of the Internal Revenue code of 1954 as amended).

The tax credit for child care providers in the committee bill differs from the Federal Welfare Recipient Employment Incentive Tax Credit in that:

(1) It is refundable;

(2) It is applicable also to tax-exempt organizations (through a payment equivalent to the credit);

(3) It is applicable through December 31, 1980; and

(4) It applies in all cases only to the first $5,000 of wages (The Federal Welfare Recipient Employment Incentive Tax Credit is limited to the first $5,000 of wages only in the case of services not performed in connection with a trade or business).

Limited Waiver of Staffing Standards

(Section 6 of the bill)

Waiver of Federal standards in certain circumstances.—In some areas, the only child care available may be in facilities primarily serving children whose care is not funded under title XX of the Social Security Act. The committee recognizes that in some cases these facilities might simply refuse to provide care paid for under title XX rather than meet the required standards. The committee bill deals with this problem by authorizing the States to waive staffing standards otherwise applicable in the case of a day care center or group day care home in which no more than 20 percent of the children (or, in the case of a center, no more than 5 children) are children whose care is paid for from title XX social services funds. However, the State agency must find that it is not feasible to furnish day care for the children in a day care facility which complies with the required standards, and the facility must comply with applicable State standards.

Family day care homes.—Although the impact of staffing requirements in title XX will be greatest for child care centers, there are indications from a number of States that family day care homes will also be affected. Under the requirements imposed by title XX the number of children who may be cared for by a family day care mother is limited as follows:

(1) Infancy through 6 years. No more than two children under two and no more than five in total, including the family day care mother's own children under 14 years old.

(2) Three through 14 years. No more than six children, including the family-day-care mother's children under 14 years old.

It is the requirement that the day care mother's own children *up to age 14* must be counted in meeting the staffing requirement which poses a problem. The children must be counted whether they are at home or attending school. A number of States have indicated that, although there may be no objection to including the mother's own children *under* age 6 in meeting the staffing requirement, family day care home providers have raised strong objections to counting the older children who are normally attending school. Many mothers begin to provide care for other children in their homes after their own children have started school. The requirement that their school age children must be counted means in some cases that the number of children they may care for is unreasonably small, and this makes their work unprofitable.

The committee bill allows the family-day-care mother's own children aged 6 and over to be disregarded in determining if the title XX standards are met. This provision is made retroactive to October 1, 1975, the date the present law provision would otherwise first apply.

Alcoholism and Drug Abuse

(Section 7 of the bill)

Public Law 94–120 included temporary modifications of the social services statute as it relates to funding of services for drug addicts and alcoholics. These temporary modifications are scheduled to expire January 31, 1976; the committee amendment would make these modifications permanent.

Confidentiality.—Title XX of the Social Security Act requires that individuals served by the program have incomes within specified limits related to State median income levels. Regulations of the Department of Health, Education, and Welfare require the States to verify an applicant's statement that his income is within the permitted limits, and verification may sometimes require an employer contact. This raises the possibility that an employer could be informed in this process that the individual is undergoing treatment for addiction or alcoholism which in turn could result in the loss of his job, defeating the purpose of the rehabilitation effort. To prevent such situations, a provision already enacted into law in the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 requires a special degree of confidentiality in dealing with the treatment of such individuals. The modification made permanent in the committee amendment does not in any way prohibit the verification of an applicant's eligibility for social services, but it does require that in the case of drug addicts and alcoholics the special confidentiality requirements of the Comprehensive Alcohol Abuse Act be observed.

Rehabilitation process.—Another problem is related to the fact that under the new law social services funding generally is not applicable to medical or residential types of care, which is more appropriately funded under other programs. Funding is available only when the care involved is a subordinate and integral part of a social service program. In itself this provision creates no difficulty for drug addiction and alcoholism programs, provided that the whole rehabilitation process is considered. However, there is a possibility under the law and regulations that certain elements of the process could be looked at in isolation and found to be ineligible for funding. The committee amendment would make permanent two temporary changes in the law designed to correct this problem.

The first change in the law makes clear that in evaluating services of a medical nature provided to an addict or alcoholic, the rehabilitative process for an individual is to be looked at in its entirety and not in segments. Thus initial detoxification, short-term residential treatment, usually about a month in duration, and subsequent counseling and other services are all to be considered together.

The second change specifically authorizes social service funding for initial detoxification programs up to a duration of 7 days, without regard to the usual ban on funding of services to institutionalized individuals. The detoxification must be integral to the further provision of services for which the individual is eligible.

III. BUDGETARY IMPACT OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and section 308 of the Congressional Budget Act of 1974, the following statements are made with respect to the budgetary impact of the bill. The committee estimates that the enactment of H.R. 9803 with the amendments proposed by the committee will result in net increased budget authority and outlays and decreased revenues (equivalent to "tax expenditures") as shown in the following table. The net figures reflect both the increased grants to States for child care and the offsetting reductions in welfare costs resulting from the hiring of welfare recipients as child care staff.

Fiscal period	Increase in budget authority and outlays (millions)	Decrease in revenues (millions)
Fiscal year 1976	$99	0
July–September 1976	55	0
Fiscal year 1977	217	$13
Fiscal year 1978	219	18
Fiscal year 1979	212	23
Fiscal year 1980	204	28
Fiscal year 1981	200	28

In compliance with sections 308(a)(1)(A) and 308(a)(2)(A) of the Congressional Budget Act of 1974, the committee estimates that the enactment of this legislation is consistent with the budgetary totals provided for in H. Con. Res. 466 and with the functional totals in the conference report on that resolution.

In compliance with section 308(a)(1)(C) of the Congressional Budget Act of 1974, the committee states that the entire amount estimated as increased budget authority and outlays under this legislation as shown in the table above constitutes financial assistance to State and local governments.

IV. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee on the motion to report the bill. The bill was ordered reported by voice vote.

A motion to delete the Federal child care staffing requirements now in title XX of the Social Security Act was defeated by the following rollcall vote:

In favor of retaining the staffing requirements (9): Senators Long, Hartke, Ribicoff, Nelson, Mondale Gravel, Bentsen, Hathaway, and Haskell.

In favor of deleting the staffing requirements (9): Senators Talmadge, Byrd of Virginia, Curtis, Fannin, Hansen, Dole, Packwood, Roth, and Brock.

V. CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Excerpt From Public Law 93-647, as Amended

* * * * * * *

Sec. 7. (a)(1) * * *

(2) Notwithstanding the provisions of section 2004 of the Social Security Act, as amended by this Act, the first services program year of each State shall begin on October 1, 1975, and end with the close of, at the option of the State—

(A) the day in the twelve-month period beginning October 1, 1975, or

(B) the day in the twelve-month period beginning October 1, 1976,

which is the last day of the twelve-month period established by the State as its services program year under that section. Notwithstanding the provisions of subsection (b) of section 2003 of the Social Security Act, as amended by this Act, the aggregate expenditures required by that subsection with respect to the first services program year of each State shall be the amount which bears the same ratio to

the amount that would otherwise be required under that subsection as the number of months in the State's first services program year bears to twelve.

(3) Notwithstanding paragraph (1) of this subsection or section 3(f), payments under title IV or section 2002(a)(1) of the Social Security Act with respect to expenditures made prior to [February 1,] *July 1,* 1976, in connection with the provision of child day care services in day care centers and group day care homes, in the case of children between the ages of six weeks and six years, may be made without regard to the requirements relating to staffing standards which are imposed by or under section 2002(a)(9)(A)(ii) of such Act, so long as the staffing standards actually being applied in the provision of the services involved (A) comply with applicable State law (as in effect at the time the services are provided), (B) are no lower than the corresponding staffing standards which were imposed or required by applicable State law on September 15, 1975, and (C) are no lower, in the case of any day care center or group day care home, than the corresponding standards actually being applied in such center or home on September 15, 1975.

* * * * * * *

Excerpt From Public Law 94-120

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SEC. 4. (a) Section 2003 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) The provisions of section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall be applicable to services provided by any State pursuant to this title with respect to individuals suffering from drug addiction or alcoholism.".

(b)(1) Section 2002(a)(7) of such Act is amended by adding at the end thereof the following new sentence: "With regard to ending the dependency of individuals who are alcoholics or drug addicts, the entire rehabilitative process for such individuals, including but not limited to initial detoxification, short term residential treatment, and subsequent outpatient counseling and rehabilitative services, whether or not such a process involves more than one provider of services, shall be the basis for determining whether standards imposed by or under subparagraph (A) or (E) of this paragraph have been met.".

(2) Section 2002(a)(11) of such Act is amended by—

(A) striking out "and" at the end of clause (B) thereof,

(B) striking out the period at the end of clause (C) thereof and inserting in lieu of such period "; and", and

(C) adding after clause (C) thereof the following new clause:

"(D) any expenditure for the initial detoxification of an alcoholic or drug dependent individual, for a period not to exceed 7 days, if such detoxification is integral to the further provision of services for which such individual would otherwise be eligible under this title.".

(3) Section 2002(a)(7)(A) of such Act is amended by inserting "(except as provided in paragraph (11)(D))" immediately after "other remedial care".

(4) Section 2002(a)(7)(E) of such Act is amended by inserting "and paragraph (11)(D)" immediately after "paragraph (11)(C)".

(c) The amendments made by this section shall be effective [only for the period beginning October 1, 1975, and ending January 31, 1976; and, on and after February 1, 1976, sections 2002(a)(7), 2002(a)(11), and 2003 of the Social Security Act shall read as they would if such amendments had not been made.] *on and after October 1, 1975.*

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Excerpt from the Social Security Act, as amended

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TITLE XX—GRANTS TO STATES FOR SERVICES

* * * * * * *

PAYMENTS TO STATES

SEC. 2002(a) * * *

* * * * * * *

(9)(A) No payment may be made under this section with respect to any expenditure in connection with the provision of any child day care service, unless—

(i) in the case of care provided in the child's home, the care meets standards established by the State which are reasonably in accord with recommended standards of national standard-setting organizations concerned with the home care of children, or

(ii) in the case of care provided outside the child's home, the care meets the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare and the Office of Economic Opportunity on September 23, 1968; except that (I) subdivision III of such requirements with respect to educational services shall be recommended to the States and not required, and staffing standards for school-age children in day care centers may be revised by the Secretary, (II) the staffing standards imposed with respect to such care in the case of children under age 3 shall conform to regulations prescribed by the Secretary, [and] (III) the staffing standards imposed with respect to such care in the case of children aged 10 to 14 shall require at least one adult for each 20 children, and in the case of school-aged children under age 10 shall require at least one adult for each 15 children, *(IV) the State agency may waive the staffing standards otherwise applicable in the case of a day care center or group day care home in which not more than 20 per centum of the children in the facility (or, in the case of a day care center, not more than 5 children in the center) are children whose care is being paid for (wholly or in part) from funds made available to the State under this title, if such agency finds that it is not feasible to furnish day care for the children, whose care is so paid for, in a day care facility which complies with such staffing standards, and if the day care facility providing care for such children complies with applicable State standards, and (V) in determining whether appli-*

cable staffing standards are met in the case of day care provided in a family day care home, the number of children being cared for in such home shall include a child of the mother who is operating the home only if such child is under age 6,

except as provided in subparagraph (B).

(B) The Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives, after December 31, 1976, and prior to July 1, 1977, an evaluation of the appropriateness of the requirements imposed by subparagraph (A), together with any recommendations he may have for modification of those requirements. No earlier than ninety days after the submission of the report, the Secretary may, by regulation, make such modifications in the requirements imposed by subparagraph (A) as he determines are appropriate.

(C) The requirements imposed by this paragraph are in lieu of any requirements that would otherwise be applicable under section 522(d) of the Economic Opportunity Act of 1964 to child day care services with respect to which payment is made under this section.

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Internal Revenue Code of 1954

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PART IV. CREDITS AGAINST TAX

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SUBPART C—RULES FOR COMPUTING CREDIT FOR EXPENSES OF WORK INCENTIVE PROGRAMS

Sec.

50A. Amount of credit.

50B. Definitions; special rules.

Sec. 50A. Amount of credit.

(a) DETERMINATION OF AMOUNT.—

(1) GENERAL RULE.—The amount of the credit allowed by section 40 for the taxable year shall be equal to 20 percent of the work incentive program expenses (as defined in section 50B(a)).

(2) LIMITATION BASED ON AMOUNT OF TAX.—Notwithstanding paragraph (1), the credit allowed by section 40 for the taxable year shall not exceed—

(A) so much of the liability for tax for the taxable year as does not exceed $25,000, plus

(B) 50 percent of so much of the liability for tax for the taxable year as exceeds $25,000.

The preceding sentence shall not apply to so much of the credit allowed by section 40 as it is attributable to Federal welfare recipient employment incentive expenses described in subsection (a)(6)(B).

(3) LIABILITY FOR TAX.—For purposes of paragraph (2), the liability for tax for the taxable year shall be the tax imposed by this chapter for such year, reduced by the sum of the credit allowable under—

(A) section 33 (relating to foreign tax credit),

(B) section 35 (relating to partially tax exempt interest),

(C) section 37 (relating to retirement income),

(D) section 38 (relating to investment in certain depreciable property), and

(E) section 41 (relating to contributions to candidates for public office).

For purposes of this paragraph, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 408(e) (relating to additional tax on income from certain retirement accounts), section 402(e) (relating to tax on lump sum distributions), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

(4) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount specified under subparagraphs (A) and (B) of paragraph (2) shall be $12,500 in lieu of $25,000. This paragraph shall not apply if the spouse of the taxpayer has no work incentive program expenses for, and no unused credit carryback or carryover to, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

(5) CONTROLLED GROUPS.—In the case of a controlled group, the $25,000 amount specified under paragraph (2) shall be reduced for each component member of such group by apportioning $25,000 among the component members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning assigned to such term by section 1563(a).

[(6) LIMITATION WITH RESPECT TO NONBUSINESS ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed $1,000.]

(6) LIMITATION WITH RESPECT TO CERTAIN ELIGIBLE EMPLOYEES.—

(A) NONBUSINESS ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed $1,000.

(B) CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are performed in connection with a child day care services program, conducted by the taxpayer, shall not exceed $1,000.

(b) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

(1) ALLOWANCE OF CREDIT.—If the amount of the credit determined under subsection (a)(1) for any taxable year exceeds the limitation provided by subsection (a)(2) for such taxable year (hereinafter in this subsection referred to as "unused credit year"), such excess shall be—

(A) a work incentive program credit carryback to each of the 3 taxable years preceding the unused credit year, and

(B) a work incentive program credit carryover to each of the 7 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by section 40 for such years, except that such excess may be a carryback only to a taxable year beginning after December 31, 1971. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried, and then to each of the other 9 taxable years to the credit that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

(2) LIMITATION.—The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by subsection (a)(2) for such taxable year exceeds the sum of—

(A) the credit allowable under subsection (a)(1) for such taxable year, and

(B) the amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and attributable to taxable years preceding the unused credit year.

(c) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER, ETC.—

(1) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate—

(A) WORK INCENTIVE PROGRAM EXPENSES. If the employment of any employee with respect to whom work incentive program expenses are taken into account under subsection (a) is terminated by the taxpayer at any time during the first 12 months of such employment (whether or not consecutive) or before the close of the 12th calendar month after the calendar month in which such employee completes 12 months of employment with the taxpayer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credits allowed under section 40 for such taxable year and all prior taxable years attributable to work incentive program expenses paid or incurred with respect to such employee.

(B) CARRYBACKS AND CARRYOVERS ADJUSTED. In the case of any termination of employment to which subparagraph (A) applies, the carrybacks and carryovers under subsection (b) shall be properly adjusted.

(2) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

(A) IN GENERAL. Paragraph (1) shall not apply to—

(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

(ii) a termination of employment of an individual who, before the close of the period referred to in paragraph (1)(A), becomes disabled to perform the services of such employment, unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual,

(iii) a termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual, or

(iv) a termination of employment of an individual with respect to whom Federal welfare recipient employment incentive expenses (as described in section 50B(a)(2)) are taken into account under subsection (a).

(B) CHANGE IN FORM OF BUSINESS, ETC. For purposes of paragraph (1), the employment relationship between the taxpayer and an employer shall not be treated as terminated—

(i) by a transaction to which section 381(a) applies, if the employee continues to be employed by the acquiring corporation, or

(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

(3) SPECIAL RULE. Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A.

(d) FAILURE TO PAY COMPARABLE WAGES.—

(1) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate, if during the period described in subsection (c)(1)(A), the taxpayer pays wages (as defined in section 50B(b)) to an employee with respect to whom work incentive program expenses are taken into account under subsection (a) which are less than the wages paid to other employees who perform comparable services, the tax under this chapter for the taxable year in which such wages are so paid shall be increased by an amount (determined under such regulations) equal to the credits allowed under section 40 for such taxable year and all prior taxable years attributable to work incentive program expenses paid or incurred with respect to such employee, and the carrybacks and carryovers under subsection (b) shall be properly adjusted.

(2) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A.

(e) *PAYMENT IN LIEU OF CREDIT TO TAX EXEMPT ORGANIZATIONS.*—

(1) IN GENERAL.—In the case of a State, any political subdivision thereof, or any organization described in section 501(c),

which is exempt from tax under section 501(a) for the taxable year, the Secretary or his delegate shall pay to each such government, subdivision, or organization which files a claim during the calendar year in the form, manner, and at the time prescribed by the Secretary or his delegate by regulations, an amount determined under paragraph (2). Such payment shall be made as soon as possible after the receipt of such claim.

(2) AMOUNT OF PAYMENT.—The amount payable to a State, subdivision, or organization (hereafter referred to as a "tax exempt entity") under paragraph (1) for the calendar year shall be equal to the amount of credit which such tax exempt entity would, if it were liable for tax under this chapter, be allowed under section 40, determined under sections 50A and 50B, for Federal welfare recipient employment incentive expenses paid or incurred by such entity during such year to an eligible employee whose services are performed in connection with a child day care services program of such entity.

(3) REPAYMENT.—If an entity which receives a payment under paragraph (1) takes any action which would result in an increase of its tax under subsection (c) or (d) of section 50A if such entity were liable for tax under this chapter, then such entity shall be liable to the Secretary or his delegate for an amount equal to the increased amount of tax which would be imposed under such subsections.

(4) TREATMENT AS OVERPAYMENT OF TAX.—For purposes of any law of the United States, including section 101 of the Treasury Department Appropriation Act of 1950, any payment made under this section shall be considered to be a refund of an overpayment of the tax imposed under this chapter.

Sec. 50B. Definitions; special rules.

(a) WORK INCENTIVE PROGRAM EXPENSES.—

(1) IN GENERAL.—For purposes of this part, the term "work incentive program expenses" means the sum of—

(A) the amount of wages paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive) of employees who are certified by the Secretary of Labor as—

(i) having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act, and

(ii) not having displaced any individual from employment, plus

(B) the amount of Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year.

[(2) DEFINITION.—For purposes of this section, the term "Federal welfare recipient employment incentive expenses" means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer before July 1, 1976, by an eligible employee.]

(2) *DEFINITIONS.—For purposes of this section, the term "Federal welfare recipient employment incentive expenses" means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer by an eligible employee—*

(A) before July 1, 1976, or

(B) in the case of an eligible employee whose services are performed in connection with a child day care services program of the taxpayer, before January 1, 1981.

(3) EXCLUSION.—No item taken into account under paragraph (1)(A) shall be taken into account under paragraph (1)(B). No item taken into account under paragraph (1)(B) shall be taken into account under paragraph 1(A).

(b) WAGES.—

For purposes of subsection (a), the term "wages" means only cash remuneration (including amounts deducted and withheld).

(c) LIMITATIONS.—

(1) TRADE OR BUSINESS EXPENSES.—No item shall be taken into account under subsection (a)(1)(A) unless such item is incurred in a trade or business of the taxpayer.

(2) REIMBURSED EXPENSES.—No item shall be taken into account under subsection (a) to the extent that the taxpayer is reimbursed for such item.

(3) GEOGRAPHICAL LIMITATION.—No item shall be taken into account under subsection (a) with respect to any expense paid or incurred by the taxpayer with respect to employment outside the United States.

(4) MAXIMUM PERIOD OF TRAINING OR INSTRUCTION.—No item with respect to any employee shall be taken into account under subsection (a)(1)(A) after the end of the 24-month period beginning with the date of initial employment of such employee by the taxpayer.

(5) INELIGIBLE INDIVIDUALS.—No item shall be taken into account under subsection (a) with respect to an individual who—

(A) bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 267(c)).

(B) if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust, or

(C) is a dependent (described in section 152(a)(9)) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in subparagraph (A), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(d) SUBCHAPTER S CORPORATIONS.—

In case of an electing small business corporation (as defined in section 1371)—

(1) the work incentive program expenses for each taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

(2) any person to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses.

(e) ESTATES AND TRUSTS.—

In the case of an estate or trust—

(1) the work incentive program expenses for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each,

(2) any beneficiary to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses, and

(3) the $25,000 amount specified under subparagraphs (A) and (B) of section 50A(a)(2) applicable to such estate or trust shall be reduced to an amount which bears the same ratio to $25,000 as the amount of the expenses allocated to the trust under paragraph (1) bears to the entire amount of such expenses.

(f) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—

In the case of—

(1) an organization to which section 593 applies,

(2) a regulated investment company or a real estate investment trust subject to taxation under subchapter M (section 851 and following), and

(3) a cooperative organization described in section 1381(a), rules similar to the rules provided in section 46(e) shall apply under regulations prescribed by the Secretary or his delegate.

(g) ELIGIBLE EMPLOYEE.—

(1) ELIGIBLE EMPLOYEE.—For purposes of subsection (a)(1)(B), the term "eligible employee" means an individual—

(A) who has been certified by the appropriate agency of State or local government as being eligible for financial assistance under part A of title IV of the Social Security Act and as having continuously received such financial assistance during the 90 day period which immediately precedes the date on which such individual is hired by the taxpayer

(B) who has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis,

(C) who has not displaced any other individual from employment by the taxpayer, and

(D) who is not a migrant worker.

The term "eligible employee" includes an employee of the taxpayer whose services are not performed in connection with a trade or business of the taxpayer.

(2) MIGRANT WORKER.—For purposes of paragraph (1), the term "migrant worker" means an individual who is employed for services for which the customary period of employment by one employer is less than 30 days if the nature of such services requires

that such individual travel from place to place over a short period of time.

(h) CROSS REFERENCE.—

For application of this subpart to certain acquiring corporations, see section 381(c)(24).

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Sec. 6201. Assesment authority.

(a) AUTHORITY OF SECRETARY OR DELEGATE.

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(4) Erroneous credit under section 39, *40*, or 43. If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit allowable by section 39 (relating to certain uses of gasoline, special fuels and lubricating oil), *40 (relating to expenses of work incentive programs)*, or section 43 (relating to earned income), the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary or his delegate in the same manner as in the case of a mathematical error appearing upon the return.

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Sec. 6401. Amounts treated as overpayments.

(a) ASSESSMENT AND COLLECTION AFTER LIMITATION PERIOD.

The term "overpayment" includes that part of the amount of the payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation properly applicable thereto.

(b) EXCESSIVE CREDITS.

If the amount allowable as credits under sections 31 (relating to tax withheld on wages), 39 (relating to certain uses of gasoline, special fuels, and lubricating oil), *40 (relating to expenses of work incentive programs) but only to the extent that such expenses are based on the employment of an individual in connection with a child day care services program of the taxpayer*, 43 (relating to earned income credit), and 667(b) (relating to taxes paid by certain trusts) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than the credits allowable under sections 31, 39, *40*, and 43), the amount of such excess shall be considered an overpayment.

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MINORITY VIEWS

We cannot support H.R. 9803, as amended and ordered reported by the Committee on Finance. While we do not question the need for prompt and effective congressional action with respect to the current controversy over the staffing requirements for child day care centers funded under title XX of the Social Security Act, we do disagree with the particular legislative response fashioned by the committee and thus are compelled to oppose the bill as reported.

To place this legislation, and our objections to it, in their proper perspective, a brief review of the manner in which the current controversy developed is necessary. The Social Services Amendments of 1974 generally consolidated social services programs, including child care, into a new title XX of the Social Security Act. A principal purpose of title XX was to provide States with a substantial degree of flexibility as to the types of social services to be provided. To achieve this flexibility, $2.5 billion in Federal funds were made available annually to the States and this amount was to be allocated among the various States on the basis of population for social services programs selected by the individual States. Although title XX was in many respects designed to assure State flexibility in the use of social services funds, the Congress in 1974 did codify into the Social Security Act certain specific staffing requirements for child care programs funded under title XX. Additionally, the Department of Health, Education, and Welfare (HEW), was authorized to issue regulations prescribing certain additional staffing ratios.

The issue of proper staffing levels for child care programs was, and continues to be, one with respect to which opinions, even among experts, differ widely. Responsive to this particular aspect of the problem, the 1974 legislation directed HEW to study the entire question of staffing ratios and report to the Congress during the first 6 months of 1977. Any changes in the staffing ratios proposed by HEW as the result of its study could not be implemented until 90 days after the study and proposals are transmitted to Congress.

The problems which now confront the Congress and require action prior to completion of the HEW study arise because, in the 1974 legislation, Congress directed that these staffing ratios be met by October 1, 1975 (and continuously thereafter) in order for child day care programs to qualify for Federal funding under title XX. Under the 1974 legislation, HEW is required to terminate all Federal reimbursement for any individual day care provider not in compliance with the staffing requirements.

As the October 1, 1975, effective date approached, it was apparent that only a few States would in fact be in compliance with the staffing ratios. To avoid potential terminations of Federal funding under title XX and the possible closing of day care centers, the House passed legislation to postpone the October 1, 1975, effective date for 6 months to April 1, 1976. The Senate agreed to a 1-month extension and the

House-Senate conference compromised at 4 months. Thus, absent further congressional action, the staffing ratios are scheduled to take effect on February 1, 1976.

From among the various alternatives available to it, the committee has decided to retain the existing staffing standards, and to assist States in meeting those standards by allocating an additional $250 million annually in title XX funds. The committee also agreed to a tax credit—to which we have no objection—to encourage compliance with these standards through the employment of welfare recipients. We cannot support the committee bill in its present form for several reasons.

Our first, and in some respects most fundamental, objection to the committee bill is its implicit assumption that the underlying staffing standards must remain intact and be applied on a mandatory basis nationwide. As a matter of principle, we have serious reservations about the appropriateness of federally mandated nationwide staffing requirements. We remain unconvinced that the individual States are unable to determine, given local circumstances, what staff to child ratios are appropriate for quality day care services. That such uniform standards cannot possibly take into account all local variations and needs is manifest from this very bill, which creates two exceptions to meet local conditions. But there is no assurance that other local problems do not exist. We also believe that citizens who are actively concerned with the quality of day care may well have a greater opportunity to participate in the process at the State level.

These philosophical concerns about mandatory and uniform Federal staffing standards are heightened in this particular situation by the widespread doubt about the appropriateness of the existing standards. The Office of Child Care is now engaged—at our direction—in a comprehensive study of the staffing standards issue. Until that study is completed, we lack data sufficient to demonstrate whether and to what extent various staffing standards have an effect on the welfare of the individual child. Unless and until we can answer these questions, we simply cannot determine whether any type of national standard is necessary and, if so, what type of standard is needed. Thus, even if mandatory Federal staffing standards might, like fire and safety standards, ultimately prove to be appropriate, we clearly lack the factual basis necessary for an informed judgment at this time. For these reasons, we supported a motion in committee to remove the mandatory staffing standards. This motion was defeated on a 9–9 tie vote and we thus find ourselves confronted with legislation imposing mandatory standards of whose efficacy we are uncertain.

Even if we were to agree that the standards themselves should not be eliminated at this time, we still have serious reservations about the allocation of $250 million annually to the States under title XX. While we support the concept of a tax credit to encourage the employment of welfare recipients, the authorization of additional title XX funds, particularly at this time, concerns us.

To the extent these additional funds are to be justified as necessary to permit State compliance with the staffing ratios, we are, as we have noted, in the position of providing Federal subsidies of standards whose validity is sufficiently in question to warrant Federal expenditures for a comprehensive study to determine whether those standards

are appropriate. At a time when Federal funds will be available for few if any new programs, it is difficult for us to justify funds for compliance with standards few can defend. We also note that not all of the additional funds are targeted to those States not now in substantial compliance with staffing standards, but instead are to be allocated in accordance with population figures. Thus, for States not now in compliance, the relief offered by the legislation may well be illusory. Whatever the merits of the argument that the funds should not be so targeted, it is a plain fact that the bill in reality is little more than a simple increase in title XX funds. If this is to be done, it should more preferably be done after the Congress, through its budget process, determines what programs, if any, merit an allocation of additional Federal funds and what programs should be returned to the States.

For the foregoing reasons, we cannot support the committee bill. We emphasize again, however, that our disagreement is not with the decision to recommend legislation, but rather is with the particular legislative remedy fashioned by the committee. We also emphasize that, even if some Federal standards are to be retained, other options were available to the committee. To illustrate, the committee could have acted to impose less restrictive staffing standards, to have postponed the effective date of the standards until the HEW study has been completed, or to provide for something less than an "atomic bomb" type of penalty for noncompliance during the period preceding completion of the HEW study. We recognize that none of these alternatives is a perfect solution to the problems that now confront us. Nevertheless, we believe that many of these problems are traceable to the congressional decision in 1974 to impose staffing standards when we were unsure of their efficacy. Pending completion of the HEW study, however, we must make the best of what concededly is a bad situation.

Hopefully, when this legislation is debated in the Senate, and later considered by the House, a better interim solution can be found. We shall work toward such a solution and, if it can be developed, we shall support it.

CARL T. CURTIS.
PAUL FANNIN.
CLIFFORD P. HANSEN.
BOB DOLE.
WILLIAM V. ROTH, JR.
BILL BROCK.

ADDITIONAL VIEWS OF SENATOR PACKWOOD

In the Finance Committee, I proposed an amendment to H.R. 9803, which was defeated by a tie vote, to delete implementation of Federal day care staffing ratios.

In light of the differing needs of the various States, and the lack of consensus among day care professionals, I am concerned that nationwide imposition of these standards could actually cause day care to deteriorate by interfering with the exercise of reasonable discretion by people responsible for providing high-quality care at the State and local level. For these reasons, I will attempt to amend H.R. 9803, which provides for additional day care funding, by deleting implementation of the staffing ratios.

The Finance Committee, in agreeing to provide an additional $250 million for day care under title XX, demonstrated that it is prepared to accept responsibility for assuring that States provide high quality day care for children eligible for title XX benefits. However, in its 9–9 tie vote on the amendment offered by me to return the decision over staffing ratios to the States, the committee showed that it could not agree on the question whether there should be immediate, nationwide implementation of one particular set of staffing ratios.

For years, we have heard day care professionals disagree over the optimum number of children per staff member. The only areas of general agreement are that fixed ratios alone cannot insure quality day care, and that they are at best difficult to determine, and at worst arbitrary.

Different staffing ratios have been proposed by Members of Congress and well-informed citizens. In an attempt to resolve this question, Congress, in title XX, instructed the Department of Health, Education and Welfare to study the question of appropriate staffing ratios, and to make recommendations to us no later than the first six months of 1977. At this time, however, the controversy over the numbers still exists.

In addition to the disagreement over which staffing ratios are the best, there are differences between States as to whether additional child care funding should be used to augment the staff at one facility, or to open a new facility at a different site to enable additional children to receive day care. The imposition of national standards at this time can only interfere with that type of decisionmaking.

In 1973, I supported Senator Mondale's amendment to title XX to require States to meet the Federal day care standards. I did this in part because the Director of Children's Services of the State of Oregon said that the Federal standards are reasonable enough, and that Oregon intended to comply, whether or not the standards were mandated by Federal law. Since then, Oregon has used 30 percent of its title XX funds for day care. Its good faith is shown by the fact that Oregon only needs a minimal amount of funding to comply fully with the new Federal standards currently scheduled to become effective February 1, 1976.

Now, however, the Oregon Division of Children's Services believes that it can best meet the day care needs of its children if it is not compelled to meet federally-imposed day care staffing ratios. I support their position, because we in Washington cannot claim any greater wisdom or sensitivity for the role of staffing ratios in proper day care management in each community than the people in that community.

The arguments for revenue sharing are similar to the arguments for my amendment. I support revenue sharing because it enables people to fight local problems through the governments closest to them. The funds are used according to local needs in the areas of education, law enforcement, transportation, social services, health, the environment, and recreation. Revenue sharing money is distributed with a minimum of Federal "strings." Yet, I have heard no criticism that day care centers, senior citizens centers, or other social services funded with revenue sharing are "low quality."

For these reasons, I believe that H.R. 9803, which provides for an additional $250 million for title XX day care programs, should be amended to return the power to set staffing ratios to the States. I will attempt to amend it by deleting implementation of the staffing ratios now scheduled to be effective February 1, 1976.

BOB PACKWOOD.

ADDITIONAL VIEWS OF SENATOR BROCK

There is a viable alternative to the two positions assumed by other members of the committee with regard to the staffing standards of P.L. 93–647, which this bill addresses. Rather than supporting or opposing all standards, the question should be, "Which standards, if any, actually have an impact on the health, safety, or proper development of children in day care?"

The Federal Government's role in mandating health and safety standards is fairly well accepted presumably because the purposes and effects are obvious. Factual information on the beneficial or negative effects on children of various staff/child ratios or caretaker certification levels and so forth is not presently available. Such data are being collected at the present time by a series of studies being conducted by the Office of Child Development. Preliminary results are expected by the fall of 1976 and more complete results the following year.

There is no point in the Federal Government establishing day care standards to protect children if those standards prove to have nothing to do with the welfare of those children. I am in favor, however, of mandating standards that can be shown to benefit the children for whom they are designed. Moreover, I wish to be on record as supporting a continuing role for the Federal Government in conducting the research that will provide the States and the Federal Government with the information they need to formulate the best possible decisions in this regard.

BILL BROCK.

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